ESPD FAQs

Using the ESPD (Scotland)

Can we renumber the ESPD (Scotland) questions?

Open or close
No. The ESPD was developed by the European Commission, and is designed to be consistent across the EU.This consistency of approach is intended to make the tendering process less onerous for bidders, for example, the ESPD will allow bidders to use saved answers from previous procurements for another procurement process.

Can notes be added to the questions in ESPD (Scotland)?

Open or close
No. Notes cannot be added to ESPD (Scotland) questions, but statements which describe how a bidder should respond to an ESPD questions can be included in the Contract Notice.

Can we delete the instructions from the front of the ESPD (Scotland) before issuing the document?

Open or close
Yes. Some parts of the instructions in the ESPD can be deleted, but please note it is best practice to include the complete instructions at the front of the document, to help bidders understand all aspects of the new process.

What is the Global Question and how to use it?

Open or close
The “Global Question” allows procurement officers to ask bidders whether or not they comply with all of the requirements stated in the Contract Notice, in relation to the whole of Part IV ‘Selection Criteria’ of ESPD (Scotland). If using the Global Question, the statements in the Contract Notice still need to relate to the ESPD (Scotland) questions. When using the Global Question, in the ESPD (Scotland), Section A-D of Part IV of ESPD (Scotland) should be deleted. Procurement officers

need to use the Global Question with caution. It is important that bidders understand what this question is referring to (for example in low risk, low value procurements).

Can we attach declaration pages and other signed statements to the ESPD (Scotland)?

Open or close
No. The ESPD is a declaration in respect of exclusion grounds and selection criteriaAnd no additional attachments can be made to ESPD (Scotland). Where your governance procedures require such documents to be submitted by bidders, they could be part of the ITT or contract terms and conditions. If in doubt please seek guidance from your internal legal team.

When should I request evidence from bidders in respect of the selection criteria?

Open or close
A bidder is not required to produce supporting documentary evidence or certificates until specifically requested to do so by you. You must request this evidence before awarding the contract, as part of your due diligence process. If the preferred bidder is unable to provide this evidence it should not be awarded the contract. You may also, where it is necessary to ensure the integrity and proper conduct of the procurement process, request, at any time, all or part of the supporting documents from a bidder and any subcontractors, consortia members or other bodies, whose capability and capacity will be relied on to perform the contract. Supporting documentary evidence should only be sought during the procurement process where you have a genuine concern that there is a risk to the effective conduct of the procurement procedure or, in a two-stage process e.g. restricted procedures, competitive procedures with negotiation, competitive dialogue and innovation partnerships, before moving from selection stage to award stage.

Do I have to give reasons why I am not lotting the contract?

Open or close
Yes. In the case of any contract with a value above GPA thresholds, the main reasons for not lotting the contract must be stated in the procurement documents or in the procurement report. A procurement report is required for each contract or framework agreement, and should be completed at the end of a procurement process. We would advise that it is best practice for the main reasons to be detailed

in the Contract Notice under Section II.2.4 Description of the procurement

Must I use the ESPD (Scotland) for lower value contracts?

Open or close
The statutory guidance under the Procurement Reform (Scotland) Act 2014, which contracting authorities must have regard to, confirms that the ESPD should also be used for lower value regulated contracts (£50,000 goods and services and £2m for works contracts). This will help ensure a consistency of approach for suppliers rather having to complete different documents when bidding for contracts.

Part III of ESPD (Scotland) – Exclusion Grounds

Do I have to include an statement on the exclusion grounds? Where should I put it?

Open or close
Yes. You should include the relevant statement on exclusion grounds, which reflects the Regulations that apply to the value of the contract being advertised. We would advise that this should be inserted under Section II.2.14 Additional information, of the Contract Notice. Exclusion grounds statements can be found in the Standardised Statements document on the Procurement Journey ESPD (Scotland) station.

Where should we ask bidders to respond to offences in respect of modern slavery legislation?

Open or close
You cannot amend Part III ‘Exclusion Grounds’ of the ESPD (Scotland) and you cannot add to the exclusion grounds contained in the ESPD, however, you may insert more information about exclusion grounds in Section II.2.14 Additional information of the Contract Notice.For example, in respect of modern slavery legislation, it is possible to clarify what bidders should consider when responding to the questions in respect of environmental, social or labour law, Part III, Section D of the ESPD.

Part IV of ESPD (Scotland) – Selection Criteria

Which questions should we use for health and safety?

Open or close
This depends on what information is being sought. It may be more appropriate to capture information in respect of health and safety and past experience through Section C ‘technical and professional ability’ of Part IV of the ESPD (Scotland).If your requirement is specifically to identify health and safety certification, you can ask this information through Section D ‘quality assurance’ of Part IV of ESPD (Scotland).

Where do statements regarding quality assurance and environmental management go in the Contract Notice?

Open or close
As the OJEU Contract Notice does not have a corresponding section for Section D ‘quality assurance’ of Part IV of ESPD (Scotland), we would advise that statements relating to this ESPD Section are included in Section III.1.3 of the OJEU Contract Notice (where you put the Technical and Professional Ability statements).

Using the Contract Notice for ESPD information

If we do not use a section of the Contract Notice, should it be left blank?

Open or close
No. In particular, Section III.1.1-3 should not be left blank. If you decide not to use any of the boxes for the statements, we would advise that a statement is included to this effect.

Do we need to include Community Benefit requirements in the Contract Notice, and if yes, where?

Open or close
If your contract value is over £4m, you are required under the Procurement Reform (Scotland) Act 2014 to consider whether to impose community benefits as part of the procurement. You must, in the Contract Notice, provide a summary of the community benefit requirements you intend to include in the contract or a statement of the reasons for not including any requirements.This can be detailed in VI.3. Additional information of the Contract Notice. You should also consider including community benefit clauses in contracts where the value is less than

£4,000,000 but no explanation is required where you decide not to include such clauses

What details should we put under the Review Body, in Section VI.4? PCS?

Open or close
Details of the relevant contracting authority should be detailed. In Scotland, we do not have an organisation responsible for reviewing procurements, so this will be your organisation.

Do selection and award criteria scoring need to be included in the Contract Notice?

Open or close
The Contract Notice must be transparent about the basis on which you will be applying the selection criteria. If you are using a two-stage procedure, you can put all the information on selection scoring and weighting in Section II.2.9 (Shortlisting) of the Contract Notice. If you are using an open procedure, the Shortlisting box cannot be used so please put your information on selection criteria under VI.3 Additional Information. It is regarded as best practice to also include your award criteria and your scoring methodology in Section VI.3 of the Contract Notice Additional Information, and in the case of a two stage process this information is mandatory.

Can attachments be included in the Contract Notice?

Open or close
Sections III.1.1, III.1.2 and III1.3 will detail the selection statements required for Part IV of the ESPD (Scotland).These fields should be used wherever possible to contain all the information in respect of the selection criteria, and only in exceptional circumstance is it expected that the character limits may be tight. In circumstances where the character limits are an issue, you may put your statements on a separate word document and insert some wording in the textboxes of the Contract Notice about the statement requirements and where to find the full description. Please note that uploading a separate word document with the Contract Notice only works if you are not using PCS-T, we are still working on this issue.

Sub-contractors

Do sub-contractors have to fill in a separate ESPD?

Open or close

Details in respect of sub-contractors on whose capacity a bidder is relying on to meet elements of the selection criteria in respect of financial and economic standing and technical and professional ability, must be contained in the ESPD (Scotland), and this can be in a separate ESPD (Scotland). Where the capacity of a sub-contractor is not being relied on to meet these elements of the selection criteria, a public body can decide whether to ask for an ESPD (Scotland) from a sub-contractor.This need should be assessed proportionately by taking account of the role of the sub-contractor and the risk associated with the delivery of the contract.